

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* 1st as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Arizona Administrative Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 6. ECONOMIC SECURITY

CHAPTER 8. DEPARTMENT OF ECONOMIC SECURITY OLDER AMERICANS AGING AND ADULT ADMINISTRATION

PREAMBLE

- | <u>1. Sections Affected:</u> | <u>Rulemaking Action:</u> |
|------------------------------|---------------------------|
| R6-8-201 | Repeal |
| R6-8-201 | New Section |
| R6-8-202 | Repeal |
| R6-8-202 | New Section |
| R6-8-203 | Repeal |
| R6-8-203 | New Section |
| R6-8-204 | Repeal |
| R6-8-204 | New Section |
| R6-8-205 | Repeal |
| R6-8-205 | New Section |
| R6-8-206 | Repeal |
| R6-8-206 | New Section |
| R6-8-207 | Repeal |
| R6-8-207 | New Section |
| R6-8-208 | Repeal |
| R6-8-208 | New Section |
| R6-8-209 | Repeal |
| R6-8-209 | New Section |
| R6-8-210 | Repeal |
| R6-8-210 | New Section |
| R6-8-211 | Repeal |
| R6-8-212 | Repeal |
| R6-8-213 | Repeal |
| R6-8-214 | Repeal |
| R6-8-215 | Repeal |
| R6-8-216 | Repeal |
| R6-8-217 | Repeal |
| R6-8-218 | Repeal |
| R6-8-219 | Repeal |
| R6-8-220 | Repeal |
| R6-8-221 | Repeal |
| R6-8-222 | Repeal |
| R6-8-223 | Repeal |
| R6-8-224 | Repeal |
2. The specific authority for rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):
Authorizing statutes: A.R.S. §§ 41-1954(A)(3) and 46-134(12)
Implementing statutes: A.R.S. §§ 46-451 through 46-455
3. The effective date of the rules:
August 21, 1996

Notices of Final Rulemaking

4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening:

1 A.A.R. 2477, November 24, 1995

Notice of Proposed Rulemaking:

2 A.A.R. 1248, March 22, 1996

Notice of Proposed Rulemaking:

2 A.A.R. 1398, April 5, 1996

Notice of Oral Proceedings:

2 A.A.R. 1258, March 22, 1996

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Vista Thompson Brown
Address: Department of Economic Security
P.O. Box 6123, Site Code 837A
Phoenix, Arizona 85005
Telephone: (602) 542-6555
Fax: (602) 542-6000

6. An explanation of the rule, including the agency's reasons for initiating the rule:

Arizona started its Adult Protective Services Program (APS) in 1975 pursuant to Title XX, of the federal Social Security Act. The current rules were originally adopted in July 1976 to provide guidelines for the operation of social services programs. The rules identify procedures for reporting and investigating allegations of abuse, neglect, or exploitation of incapacitated or vulnerable adults. The rules have not been revised or updated since their implementation.

In 1980, the state of Arizona began adopting statutes to operate APS as a mandated program. The APS statutes have been revised and amended since implementation of the APS program and, as a result, the rules are now outdated.

In this rulemaking package, the Department is adopting a new, comprehensive set of rules to govern APS program operations. The new rules will be consistent with current federal and state authority, and with current program policy and practice.

7. A showing of good cause why the rule is necessary to promote statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state.

Not applicable.

8. The preliminary summary of the economic, small business and consumer impact:

There will be no economic impact on small businesses as the rules do not change the mandatory reporting requirements established by A.R.S. § 46-454. Consumer impact will also be minimal as the underlying substantive requirements are unchanged. The rules themselves have been updated to include new language and to reflect statutory changes that have occurred during the past 20 years.

9. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

DES received no substantive comments from the public. DES made the following changes between the proposed rules and the adopted rules as a result of comments received from staff to the Governor's Regulatory Review Council:

1. R6-8-201 (7). Definitions

The definition of "Guardian" is amended to indicate proper statutory reference:

PROPOSED: 7. "Guardian" means a person who has been appointed by a court to manage the affairs of another, as prescribed in A.R.S. § 14-5401 et seq.

ADOPTED: 7. "Guardian" means a person who has been appointed by a court to manage the affairs of another, as prescribed in A.R.S. § 14-5301 et seq.

2. R6-8-201 (8). Definitions

To improve understanding and grammar inserted the word "but" in the following definition:

ADOPTED: 8. "Information and referral" means the provision of information or referral to help a person who contacts or is reported to the Department, but who is not alleged to be abused, neglected, or exploited, to locate and obtain help with a problem

3. R6-8-208. Refusal of Services by the Adult or Guardian

To improve text and provide a clear understanding of the process, subsection 1 was removed and renumbered, and the following sentence was added to subsection (B):

ADOPTED: B. If an APS worker believes that a client in need of services is a danger to self or gravely disabled due to a mental disorder, as prescribed in A.R.S. § 36-501 or in need of a guardianship or conservatorship, the APS worker may obtain further assessment of the client's physical or mental health in order

Arizona Administrative Register
Notices of Final Rulemaking

to take action to protect the client.

4. R6-8-209(2) and (7). Case Closure

To provide for clarity and greater understanding of the situations in which APS may close a case these sections are re-worded as follows:

PROPOSED: 2. The abuse, neglect, or exploitation ~~is successfully resolved;~~

ADOPTED: 2. The abuse, neglect, or exploitation is resolved by the provision of services or other methods;

PROPOSED: 7. Contact with the client is lost and attempts to reestablish have failed; or,

ADOPTED: 7. Contact with the client is lost and 3 attempts to reestablish contact have failed; or,

5. R6-8-210(D). Confidentiality

To better clarify the process for obtaining information from the APS program, added a clause as follows:

PROPOSED: D. The receipt date is the day that the receiving office designated on the request actually receives the complete request.

ADOPTED: D. The receipt date is the day that the receiving office designated on the request actually receives the complete request, as prescribed in subsection (B).

6. Renumbering

This rulemaking action which is the subject of this Notice of Final Rulemaking was originally contained in 2 separate proposed rulemaking packages. The 1st proposed rulemaking package contained all new rules being adopted, but omitted a portion of the old rules being repealed. The 2nd proposed rulemaking package contained the 4 old rules slated for repeal that were omitted from the 1st proposed rulemaking package. The omission in the 1st proposed rulemaking package caused the new rules to be mislabeled in the publication of the 1st rulemaking package. The numeric labels have been corrected in this final rulemaking package.

10. A summary of the principal comments and the agency response to them:

Only 2 members of the public attended the public hearings. Both of those individuals indicated that they were there as observers and had no comments to make about the content of the rules. They did ask questions of a general nature; they asked why the Department was issuing new rules, and what was meant by the "crossed out" Sections in the rulemaking notice. The program representative answered these questions. One of the individuals asked why the rules did not contain more detailed instructions for the APS workers. The program puts detailed instructions in the policy and procedures manual used by APS workers. Detailed instructions about internal matters and procedures are not appropriate content for rules. No other comments were made.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific agency or to any specific rule or class of rules:

None.

12. Incorporations by reference and their location in the rules:

None

13. Was the rule previously adopted as an emergency rule?

No

14. The full text of the rules follows:

TITLE 6. ECONOMIC SECURITY

CHAPTER 8. DEPARTMENT OF ECONOMIC SECURITY

OLDER AMERICANS AGING AND ADULT ADMINISTRATION

ARTICLE 2. ADULT PROTECTIVE SERVICES

Section

R6-8-201.

Goals

R6-8-201.

Definitions

R6-8-202.

Objectives

R6-8-202.

Reporting Requirements for Adult Protective Services Cases

R6-8-203.

Authority

R6-8-203.

Eligibility for Services

R6-8-204.

Service Description

R6-8-204.

Jurisdiction

R6-8-205.

Definitions

R6-8-205.

Classification

R6-8-206.

Guidelines for Screening Adult Protective Services Referrals

R6-8-206.

Investigation

R6-8-207.

Eligibility for Services

R6-8-207.

Case Planning

R6-8-208.

Investigation of Initial Report

R6-8-208.

Refusal of Services by the Adult or Guardian

R6-8-209.

Refusal of Services by the Adult or Guardian

R6-8-209.

Case Closure

R6-8-210.

Service to Incapacitated Adults

R6-8-210.

Confidentiality

R6-8-211.

Guidelines for Determining Need for Ongoing Adult Protective Services

Arizona Administrative Register
Notices of Final Rulemaking

| | |
|-----------|--|
| R6-8-212: | Reporting Felonies |
| R6-8-213: | Legal Services in Adult Protective Services |
| R6-8-214: | Determining Need for Mental Health Evaluations |
| R6-8-215: | Arranging for Guardian or Conservators |
| R6-8-216: | Arranging for Shelter Care or Receiving Home Care |
| R6-8-217: | Case Planning |
| R6-8-218: | Ongoing Adult Protective Services |
| R6-8-219: | Providing Service to Implement the Casework Plan |
| R6-8-220: | Adult Protective Services Outside of Arizona |
| R6-8-221: | Referrals from Social Services and Child Protective Services |
| R6-8-222: | The Central Registry |
| R6-8-223: | Adult Protective Services Identification Card |
| R6-8-224: | Closure of Adult Protective Services |

ARTICLE 2. ADULT PROTECTIVE SERVICES

R6-8-201: Goals

To help eligible clients to prevent or remedy neglect, abuse, or exploitation of adults unable to protect their own interests, or preserve, rehabilitate, or reunite families.

R6-8-201: Definitions

In addition to the definitions in A.R.S. § 46-451, the following definitions apply in this Article unless the context requires otherwise.

1. "Adult" means a person 18 years of age or older.
2. "Adult Protective Services" or "APS" means a program within the Department of Economic Security which provides protective services.
3. "Conservator" means a person who has been appointed by a court to manage the affairs of another, as prescribed in A.R.S. § 14-5401 et seq.
4. "Danger to self" means:
 - a. Behavior which, as a result of a mental disorder, constitutes a danger of inflicting serious physical harm upon oneself, including attempted suicide or the serious threat thereof, if the threat is such that, when considered in the light of its context and in light of the individual's previous acts, it is substantially supportive of an expectation that the threat will be carried out; for}
 - b. Behavior which, as a result of a mental disorder, will, without hospitalization, result in serious physical harm or serious illness to the person, except that this definition shall not include behavior which establishes only the condition of gravely disabled. A.R.S. § 36-501(5).
5. "Department" means the Department of Economic Security.
6. "Gravely disabled" means "a condition, evidenced by behavior in which a person, as a result of a mental disorder, is likely to come to serious physical harm, or serious illness because he is unable to provide for his basic physical needs." A.R.S. § 36-501.
7. "Guardian" means a person who has been appointed by a court to manage the affairs of another, as prescribed in A.R.S. § 14-5301 et seq.
8. "Information and referral" means the provision of information or referral to help a person who contacts or is reported to the Department, but is not alleged to be abused, neglected, or exploited, to locate and obtain help with a problem.
9. "Intake" means a duty performed by APS staff in receiving reports or providing information and referral.
10. "Jurisdiction" means the state of Arizona, exclusive of Native American Reservation land.
11. "Life-threatening situation" means a situation or circum-

stance that is likely to result in death if not corrected by medical or law enforcement intervention.

12. "Mental disorder" means "a substantial disorder of a person's emotional processes, thought, cognition, or memory. Mental disorder is distinguished from:
 - a. Conditions which are primarily those of drug abuse, alcoholism, or mental retardation, unless, in addition to 1 or more of these conditions, the person has a mental disorder;
 - b. The declining mental abilities that directly accompany impending death; and
 - c. Character and personality disorders characterized by lifelong and deeply ingrained anti-social behavior patterns, including sexual behaviors which are abnormal and prohibited by statute unless the behavior results from a mental disorder". A.R.S. § 36-501.
13. "Personally identifiable information" means any information that can indicate a person's identity including:
 - a. Name;
 - b. Address;
 - c. Telephone number;
 - d. Fax number;
 - e. Photograph;
 - f. Fingerprints;
 - g. Physical description;
 - h. Place, address, or telephone number of employment;
 - i. Social security number;
 - j. Tribal affiliation;
 - k. Tribal identification number;
 - l. Driver's license number;
 - m. Birthdate;
 - n. APS worker narrative; or,
 - o. Any other identifier specific to an individual.
14. "Prepetition screening" means the "review of each application requesting court-ordered evaluation, including an investigation of facts alleged in such application, an interview with each applicant and an interview, if possible, with the proposed patient. The purpose of the interview with the proposed patient is to assess the problem, explain the application, and, when indicated, attempt to persuade the proposed patient to receive, on a voluntary basis, evaluation or other services". A.R.S. § 36-501(30).
15. "Protected person" means "a minor or any other person for whom a conservator has been appointed or any other protective order has been made". A.R.S. § 14-5101(4).
16. "Protective services" means "a program of identifiable and specialized social services that may offer social services appropriate to resolve problems of abuse, exploitation, or neglect of an incapacitated or vulnerable adult". A.R.S. § 46-451(A)(8).
17. "Record" means a collection of documents, including electronic documents, related to casework about a person reported to APS, or receiving APS services.
18. "Report" means a communication which alleges abuse, neglect, or exploitation of an incapacitated or vulnerable adult, or information regarding an adult who may be in need of protective services.
19. "Special visitation warrant" means an order of the Superior court that is issued as prescribed in A.R.S. § 14-5310.01 and which permits an APS worker, accompanied by a peace officer, to visit the residence of an adult believed to be incapacitated and abused, neglected, or exploited.
20. "Work day" means 8 a.m. to 5 p.m., Monday through Fri-

Notices of Final Rulemaking

day, excluding Arizona state holidays.

R6-8-202. Objective

To arrange for abused, neglected, or exploited adults to receive medical, legal and other facilitate services to remove them from, or to alleviate, hazardous situations.

R6-8-202. Reporting Requirements for Adult Protective Service Cases

Upon receipt of a report, as prescribed in A.R.S. § 46-454, APS shall ask the reporting source to provide:

1. All information as prescribed in A.R.S. § 46-454(C); and
2. As much information regarding the allegedly incapacitated, or vulnerable adult as is available to the source including:
 - a. The names and addresses of those involved and their roles;
 - b. The length of time the situation has been ongoing;
 - c. The client's functional level;
 - d. Whether other agencies are providing assistance and, if so, what type of assistance; and,
 - e. Any other information that may assist the APS worker in the investigation.

R6-8-203. Authority

A.R.S. §§ 41-1954(1)(b), 41-1954(3), and 46-134(8).

R6-8-203. Eligibility for Services

To be eligible for APS services, a person shall be:

1. Age 18 years or older;
2. Incapacitated or vulnerable;
3. The victim or alleged victim of abuse, neglect, or exploitation; and,
4. Within the jurisdiction.

R6-8-204. Service Description

- A. Intake and evaluation to determine need and eligibility for service.
- B. Investigation and diagnosis, including arranging for medical and psychiatric services to evaluate a client's condition, upon request of adults at risk or other persons acting on their behalf.
- C. Arranging, when necessary, for guardianship, commitment, or other protective placements directly or by referral to appropriate agencies.
- D. Assisting clients in securing placement in alternate living arrangements in the community or in an institution.
- E. Providing counseling to such adults, their families, other responsible persons or to surrogates such as representative payees, on handling the affairs of such adults.
- F. Assisting in the location of medical care, legal services, and other resources in the community.
- G. Providing ongoing supportive supervision of persons in adult foster family homes.
- H. Assisting adults to remain in their own homes by providing services to prevent or remove the abuse or neglect.

R6-8-204. Jurisdiction

- A. An APS worker shall not investigate reports of events which occurred in another state, foreign country, or Indian reservation.
- B. When the Department receives a report of alleged abuse, neglect, or exploitation of a person who is outside of the jurisdiction, the Department shall make a report to the appropriate state, international, or tribal government or social services agency.

R6-8-205. Definitions

- A. "Abuse" means the infliction of physical or mental harm through the action of the adult or others.

- B. "Adult" means an individual 18 years of age and older.
- C. "Adult protective services worker" means a Department of Economic Security employee providing social services in adult protection.
- D. "Alternate living arrangement" means any living arrangement other than own home.
- E. "Caretaker" means a person who has the responsibility for the care of an adult as a result of family relationship or who has assumed the responsibility for the care of the adult. A caretaker under this chapter is not a guardian.
- F. "Central registry" means a confidential file of all adults reported to be abused, neglected, or exploited.
- G. "Child protective services worker" means a person employed by the Department of Economic Security to provide protective services to children who have been reported abused, abandoned, dependent and exploited, and to their families.
- H. "Contact" means a personal visit, a telephone call, or a written communication.
- I. "Conservator" is an adult "who may expend or distribute income or principle of the estate without court authorization or confirmation for the support, education, care or benefit of the protected person and his dependents" (A.R.S. § 14-5425).
- J. "Counseling" means one or more discussions between a Department of Economic Security representative and an adult directed at improving individual or family functioning or resolving an identified problem.
- K. "Danger to self" means behavior which constitute a danger to inflicting substantial bodily harm upon oneself, including attempted suicide. Danger to self is not present if the hazards to self are restricted to those which may arise from conditions defined under grave disability (A.R.S. § 36-501).
- L. "Exploitation" means the deprivation of rights and entitlements due to the adult or the wasting of the adult's self or resources by others.
- M. "Felony" means "a crime or public offense which is punishable with death or imprisonment in the state prison" (A.R.S. § 13-103).
- N. "Foster homes" means a private home studied and approved by the Department of Economic Security for adults for non-nursing home needs.
- O. "Gravely disabled" means "a condition in which a person is unable to provide for his basic personal needs for food, clothing, and shelter as a result of a mental disorder of a type which has:
 1. Developed over a long period of time and has been of long duration; or
 2. Developed as a manifestation of a degenerative brain disease during old age; or
 3. Developed as a manifestation of some other degenerative physical illness of long duration" (A.R.S. § 36-501).
- P. "Guardian of an incapacitated person" is an individual who "has the same powers, rights, and duties respecting his ward that a parent has respecting his unemancipated minor child except that a guardian is not liable to third persons for acts of the ward solely by reason of the guardianship." (A.R.S. § 14-5312).
- Q. "Hazardous conditions" means a state of physical and environmental circumstance involving risk to life and limb.
- R. "Incapacitated person" means "any person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, advanced age, chronic use of drugs, chronic intoxication or other cause, except minority, to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person" (A.R.S. § 14-1501).
- S. "Investigation of initial report" means a systematic inquiry and

detailed study by an adult protective service worker to determine reports, oral or written, of alleged abuse, neglect, or exploitation of an adult.

T. "Law enforcement" means sheriffs, of counties, constables, marshals, and police persons of cities and towns.

U. "Mental disorder" means "a substantial disorder of the person's emotional processes, thought, cognition, or memory. Mental disorder is distinguished from:

1. Conditions which are primarily those of drug abuse, alcoholism, or mental retardation;
2. The declining mental abilities that directly accompany impending death;
3. Character and personality disorders characterized by life-long and deeply ingrained anti-social behavior patterns, including sexual behaviors which are abnormal and prohibited by statute unless the behavior results from a mental disorder" (A.R.S. § 36-501).

V. "Neglect" means the causing of physical or mental harm through the inaction of the individual or others, including but not limited to deprivation of food, shelter, clothing, and medical care.

W. "Public fiduciary" means a person appointed by the County Board of Supervisors to serve those persons in need of guardianship or conservatorship and for whom there is no person or corporation qualified or willing to act in such capacity.

X. "Receiving foster home" means a foster home certified by the Department of Economic Security as suitable for immediate placement of adults.

Y. "Shelter care" means 24-hour, short-term emergency care in a facility approved by the Department of Economic Security.

Z. "Social services" means services provided by the Department of Economic Security employee to assist families in the resolution of problems affecting social functioning.

AA. "Voluntary services" means services provided with the consent of the adult.

R6-8-205. Classification

At intake, an APS worker shall classify the incoming communication into one of the following 3 categories:

1. Information and referral;
2. Report accepted for evaluation and investigation;
- or,
3. Report accepted for evaluation, but not investigation.

R6-8-206. Guidelines for Screening Adult Protective Services Referrals:

All initial reports, oral or written, of abused, neglected, or exploited adults shall be investigated by an adult protective services worker. The source must provide information concerning the nature and extent of abuse, neglect and exploitation.

R6-8-206. Investigation

A. Reports Accepted for Evaluation and Investigation:

1. In alleged life-threatening situations, the APS worker shall refer the reporting source or initiate contact with:
 - a. Local law enforcement authorities,
 - b. Paramedics, or
 - c. An emergency medical team.
2. When an APS worker investigates a situation that may present a danger to the APS worker or client, the APS worker may ask law enforcement authorities to participate in the investigation either at the time of the report or upon arrival at the scene.
3. An APS worker shall visit a person who may be in need of adult protective services within 2 work days after receipt of a report.
4. The APS worker shall investigate, determine, and document in the record whether:

ment in the record whether:

- a. The allegations are substantiated,
- b. The client needs services,
- c. The client will accept services,
- d. The client appears able to provide informed consent for the provision of services,
- e. The Department needs to request an outside mental health assessment, or
- f. The Department needs to file for a special visitation warrant.

5. To make the assessment described in subsection (A)(4), the APS worker shall consider all relevant circumstances regarding the client, which may include the following:

- a. The client's appearance,
- b. Identifying information,
- c. Financial information,
- d. Existing protective arrangements,
- e. Physical status including any disabilities,
- f. Medications,
- g. Medical history,
- h. Mental status,
- i. Functional status,
- j. Behavioral status,
- k. Social environment,
- l. Physical environment,
- m. Nutrition,
- n. Services provided by other resources,
- o. The client's perception of the situation, and
- p. The perception of the client's situation by:
 - i. Family,
 - ii. Neighbors,
 - iii. Caregivers,
 - iv. Friends, or
 - v. Other concerned parties.

B. Reports Accepted for Evaluation but not Investigation. APS may classify a report as not accepted for investigation because of:

1. Insufficient information,
2. Sufficient involvement of other resources,
3. The situation is known to APS and the report does not provide additional information, or
4. The client's need is for placement into a care facility only.

R6-8-207. Eligibility for services

Persons who have attained the age of 18 years, who are harmed or threatened with harm through action or inaction by another individual or through their own ignorance, incompetence, or poor health, resulting in mental abuse, neglect, deprivation of entitlements due them, or wasting of their resources. There must be no one willing and able to provide needed assistance.

R6-8-207. Case Planning

A. The APS worker shall maintain a case plan for clients in need of protective services.

1. The case plan shall contain:
 - a. Specific goals and objectives,
 - b. Outline of casework activities for achieving objectives, and
 - c. Time frames for achieving objectives.

B. An APS worker shall:

1. Involve the client in identifying and understanding the client's needs and planning of services to address those needs, unless the client's mental or physical condition prevents the client from participating in planning.
2. Locate persons who can help the client achieve planned goals.

Arizona Administrative Register
Notices of Final Rulemaking

3. Regularly assess the client's progress towards the goals.
4. Revise goals to meet the changing needs of the client; and
5. Coordinate with other agencies to address the client's needs.

R6-8-208. Investigation of Initial Report

- A. The visit shall be made immediately if the adult is in danger of imminent physical harm.
- B. The adult shall be visited within 48 hours (excluding Saturdays, Sundays and state and federal holidays), after receipt of a report of a person who may be in need of adult protective services.
- C. If the adult lives with a caretaker, the caretaker shall be interviewed.
- D. The purpose of the visit is to:
1. Determine the validity of the report;
 2. Determine how the adult is being affected by the situation.
- E. If a report is determined to be valid, the central registry file will be checked to determine if the adult had been previously referred to the Department of Economic Security.

R6-8-208. Refusal of Services by the Adult or Guardian

- A. An adult may refuse adult protective services.
- B. If an APS worker believes that a client in need of services is a danger to self or gravely disabled due to a mental disorder, as prescribed in A.R.S. § 36-501 or in need of a guardianship or conservatorship, the APS worker may obtain further assessment of the client's physical or mental health in order to take action to protect the client.
1. The action may include:
 - a. Seeking a special visitation warrant if the APS worker is denied access to a client.
 - b. Petitioning for appointment of a conservator or guardian, or
 - c. Applying for prepetition screening.
- C. A guardian may refuse services on behalf of a protected person.
- D. If an APS worker finds that a guardian is not acting in the best interest of a protected person, the APS worker may petition the court to review the guardianship. The petition shall include the specific reasons that the APS worker believes that the guardian is not acting in the best interest of the ward.

R6-8-209. Refusal of Services by the Adult or Guardian

The adult or guardian has a right to refuse adult protective services. However, if it is believed the adult is incapacitated, further assessment shall be made to determine if legal action is needed.

R6-8-209. Case Closure

APS may close a case when:

1. Allegations of abuse, neglect, or exploitation are not substantiated;
2. The abuse, neglect, or exploitation is resolved by the provision of services or other methods;
3. The client's capacity is not in question, and the client is refusing APS involvement or is not accepting viable remedies for prevention of risk;
4. The client is admitted to care in a state institution or other care facility;
5. The client has moved outside the jurisdiction;
6. The client dies;
7. Contact with the client is lost and 3 attempts to reestablish contact have failed; or
8. Guardianship or conservatorship is obtained.

R6-8-210. Service to Incapacitated Adult

- A. When an adult is harmed or threatened with harm and it appears that he is an incapacitated person needing protection under the law, the adult protective services worker shall take steps to initiate voluntary protection of the person or take action which may cause a petition to be filed for the appointment of a guardian and/or conservator on behalf of the adult, or for court ordered mental health treatment. If the guardian is abusing, neglecting, or exploiting the adult, the adult protective services worker may cause a petition for a temporary guardian to be filed and/or removal of the present guardian.
- B. In no case shall an adult protective services worker be appointed as guardian.

R6-8-210. Confidentiality

- A. All personally identifiable information is confidential as prescribed in A.R.S. § 41-1959. A person who is entitled to obtain information pursuant to A.R.S. § 41-1959(C) and who wishes to obtain information shall comply with the requirements of this Section.
- B. The requester shall send a written request to the APS program manager for the office where the requester believes the records are located; the request shall include the following information:
1. The name, address, and telephone number of the person, organization, or entity requesting information;
 2. If the request is on behalf of an organization or entity, the name and title of the person signing the request;
 3. The purpose for which the information is sought;
 4. The section of A.R.S. § 41-1959(C) authorizing the person to obtain the information;
 5. The name of the client who is the subject of the APS report, with as much of the following information as the requester can provide:
 - a. Other possible spellings, names, or aliases of the client;
 - b. The approximate date of the APS report; and
 - c. Any other data that the requester believes will be likely to assist the Department in identifying the information requested.
- C. Upon receipt of a request for information, the Department shall determine if the request is complete. If the request is not complete, the Department shall contact the requester for the missing information.
- D. The receipt date is the day that the receiving office designated on the request actually receives the complete request, as prescribed in subsection (B).
- E. The Department shall respond to the requester within 15 work days.
- F. The person releasing the information shall document in the case record:
1. The name of the person to whom the information was released.
 2. The date and method of release, and
 3. A description of the information released.

R6-8-211. Guidelines for determining need for ongoing adult protective services

- A. The adult is in need of protective services and will accept services;
- B. A petition for guardianship/conservatorship is needed; or,
- C. A mental health evaluation is needed.

R6-8-212. Reporting Felonies

The adult protective services worker must report all felonies that come to his attention to law enforcement. Failure to do so could expose the adult protective services worker to a charge of accom-

plice or accessory after the fact (A.R.S. § 13-141).

R6-8-213: Legal Services in Adult Protective Services

- A: Consulting with legal services bureau
 - 1: The adult protective services worker may consult the Department of Economic Security's legal services bureau regarding reporting procedure on felony cases.
 - 2: The adult protective services worker may contact the legal services bureau for interpretation of laws affecting adults and their rights.
- B: Guardianship of incapacitated persons
 - 1: The law relating to guardianships of incapacitated persons sets forth priorities for appointment, A.R.S. § 14-5311. The last priority is for "the nominee of a person who is caring for the incapacitated person or paying benefits to him." Under this Section, the Department of Economic Security may nominate an individual to act as guardian.
 - 2: In no case should an adult protective services worker be appointed as guardian.

R6-8-214: Determining Need for Mental Health Evaluations

The adult protective services worker must determine if the adult appears to be a danger to self or gravely disabled as a result of a mental disorder before making an application for screening. (A.R.S. § 36-501).

R6-8-215: Arranging for Guardian or Conservators

The county public fiduciary will be contacted to initiate legal procedures for the appointment of a guardian and/or conservator when the adult is determined to be incapacitated but is not a danger to self or gravely disabled due a mental disorder.

R6-8-216: Arranging for Shelter Care or Receiving Home Care

- A: The Adult Protective Services worker may help the adult find a local resource which can provide over night or short term care.
- B: Placement, with the adult's consent, may be in a shelter care facility or a receiving home.

R6-8-217: Case Planning

- A: The adult shall be assisted in identifying and understanding his needs and will be involved in case planning whenever capable.
- B: No medical diagnostic information unknown to the adult is discussed with him without consent of his physician, legal guardian, and/or caretaker relative.

R6-8-218: Ongoing Adult Protective Services

- A: The Adult Protective Services will continue to provide services as long as needed and desired by the adult or his guardian.
- B: Referral may be made to an appropriate Department of Eco-

nomie Security or community service when Adult Protective Services are no longer needed.

- C: If the adult moves to another county or state before a satisfactory assessment is completed and the address is known, and it is believed the adult is incapacitated and in danger of harm, a request is made to an appropriate Social Service agency in the new county or state of residence to provide protective services.

R6-8-219: Providing Service to Implement the Casework Plan

- A: The Adult Protective Services worker is required to visit or otherwise contact the adult as necessary to assure that the case is progressing according to plan and to provide assistance where necessary.
- B: The Adult Protective Services worker shall visit or otherwise contact all persons who will, or who might be willing to, help the adult achieve his planned goal.

R6-8-220: Adult Protective Services Outside of Arizona

- A: The adult protective service worker will not enter another state or foreign country.
- B: All contacts out of Arizona shall be made through the appropriate state or international social services agency.

R6-8-221: Referrals from Social Services and Child Protective Services

- A: Social services worker or Child Protective Services workers shall refer any 18 year old foster child to Adult Protective Services if the adult is in need of protection.
- B: Social services workers or Child Protective Services workers will refer other adults to Adult Protective Services who need protection.

R6-8-222: The Central Registry

Within thirty days after the receipt of the initial information, the Adult Protective Services worker will render a written report to the Central Registry.

R6-8-223: Adult Protective Services Identification Card

The Department of Economic Security shall provide a photo identification card for all Adult Protective Services workers.

R6-8-224: Closure of Adult Protective Services

- A: Adult Protective Services shall be closed when a determination has been made that the adult is no longer in danger or threat of danger and there is no need for protection.
- B: The adult has moved and whereabouts is unknown.
- C: A referral has been made for other Department of Economic Security Social Services or to an appropriate social agency and the family is receiving the necessary services to resolve the referral problem.
- D: The adult terminates service.

NOTICE OF FINAL RULEMAKING

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 2. ARIZONA RACING COMMISSION

PREAMBLE

1. Sections Affected: R19-2-309 Rulemaking Action: Amend
2. The specific authority for rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):
Authorizing statute: A.R.S. § 5-104(A)(2)
Implementing statute: A.R.S. § 5-107.01(B)
3. The effective date of the rules:
August 7, 1996
4. A list of all previous notices appearing in the Register addressing the final rule:
Notice of Rulemaking Docket Opening:
2 A.A.R. 1314, March 22, 1996

Notice of Proposed Rulemaking:
2 A.A.R. 1593, May 3, 1996
5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:
Name: William J. Walsh

Address: Department of Racing
15 South 15th Avenue, Suite 100
Phoenix, Arizona 85007

Telephone: (602) 542-5151
Fax: (602) 542-5177
6. An explanation of the rule, including the agency's reasons for initiating the rule:
The amendment strikes the position of announcer from the list of track officials. The rule change was initiated at the request of some of the state's racetracks. The Department does not believe that the announcers at the racetracks need to be included as track officials. It should be noted that the individuals filling those positions will still be licensed by the Department as are all other track employees.
7. A showing of good cause why the rule is necessary to promote statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state.
Not applicable.
8. The summary of the economic, small business and consumer impact:
None.
9. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):
Deleted "shall apply to" and inserted "means" in R19-2-309(A)(1).
10. A summary of the principal comments and the agency response to them:
There were no comments.
11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific agency or to any specific rule or class of rules:
None.
12. Incorporations by reference and their location in the rules:
Not applicable.
13. Was the rule previously adopted as an emergency rule?
No
14. The full text of the rules follows:

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 2. ARIZONA RACING COMMISSION

ARTICLE 3. GREYHOUND RACING

Section

R19-2-309. Officials

ARTICLE 3. GREYHOUND RACING

R19-2-309. Officials

A. Generally

1. The term "track official" ~~shall apply to~~ means the following persons employed by the permittee and approved and licensed by the Department: Director of Racing, 1 steward, mutuel manager, clerk of scales, starter, timer, paddock judge, veterinarian, track superintendent, racing secretary, chart writer, kennel master, and operator of the mechanical lure, ~~and announcer.~~

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Notices of Final Rulemaking

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| 6. No change. | iv. No change. |
| 7. No change. | b. No change. |
| 8. No change. | c. No change. |
| a. No change. | d. No change. |
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| ii. No change. | f. No change. |
| iii. No change. | |